

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

JAMES E. JOHNSON, BRUCE MOORE and)	
CHRISTOPHER RAY,)	
)	
Plaintiffs,)	
)	
vs.)	No. 04-0963-CV-W-2-FJG
)	
UNITED STATES BEEF CORPORATION,)	
)	
Defendant.)	

ORDER

Currently pending before the Court is defendant's Motion to Strike Plaintiffs' Suggestions in Opposition to Defendant's Motion for Summary Judgment (Doc. # 117), Plaintiff's Second Motion for Extension of Time in Which to Submit Plaintiff's Suggestions in Opposition to Defendant's Motion for Summary Judgment (Doc. # 114) and plaintiff's Motion for Leave to File a Supplemental Response (Doc. # 122).

Plaintiffs' Suggestions in Opposition to Defendant's Motion for Summary Judgment were originally due at 4:00 p.m. on June 26, 2006. Shortly before the deadline, counsel for plaintiff contacted the Court and requested a twenty-four hour extension. Plaintiff filed a Motion for Extension of Time which was granted the next day. On June 27, 2006, plaintiff's counsel again requested a second twenty-four hour extension of time. In her second motion for an extension of time, plaintiff's counsel stated that she "intended to file the existing Motion so the Court is aware of how close the completion is. In making this request, Counsel simply asks to supplement or replace the document filed today with the final version of the Plaintiffs Suggestions in

Opposition. The chief difference between the two anticipated responses have to do with supplying citations to each respective fact identified by both Plaintiffs and Defendant in their respective Fact Section of their brief.” (Plaintiff’s Second Motion for Extension of Time, Doc. # 114).

On June 27, 2006, plaintiff filed Suggestions in Opposition, however the Suggestions contained numerous blank spaces and several statements of fact had not been responded to. On June 28, 2006, plaintiff then filed another pleading entitled Suggestions in Opposition. This second pleading contained slightly more information, but also still contained many blank references to documents or exhibits and many of plaintiff’s statement of facts contained no supporting reference at all. Defendant argues that it has been unfairly prejudiced and hampered in filing its Reply Suggestions due to the incomplete nature of plaintiffs’ Suggestions in Opposition. Additionally, defendant argues they still do not have a copy of plaintiff’s exhibits.

On July 10, the Court ordered plaintiffs’ counsel to provide a more detailed explanation indicating why the Suggestions in Opposition could not be filed on or before the deadline. Plaintiffs’ counsel was also required to provide to the Court in camera a note from her physician outlining her medical condition and the date the surgery was performed. Plaintiffs’ counsel has now filed a response to the Motion to Strike and has also provided the Court with an explanatory letter from her physician. Plaintiffs’ counsel has also filed a Motion for Leave to file her *completed* Suggestions in Opposition to the defendant’s Motion for Summary Judgment.

While the Court feels that plaintiffs’ counsel could have sought an extension of time sooner than she did, plaintiffs’ counsel nonetheless did request an extension of time before the deadline. Although the two previous Suggestions in Opposition were

incomplete, the Court finds that plaintiffs' counsel made a good faith effort to timely file the Suggestions. Accordingly, the Court hereby **GRANTS** plaintiffs' Second Motion for an Extension of Time (Doc. # 114) and **GRANTS** Plaintiffs' Motion for Leave to File a Supplemental Response to the Defendant's Motion for Summary Judgment (Doc. # 122). Plaintiffs' counsel shall file the completed Suggestions in Opposition on or before **July 17, 2006**. Defendant's Motion to Strike Plaintiffs' Suggestions in Opposition is hereby **DENIED** (Doc. # 117).

Date: July 14, 2006
Kansas City, Missouri

S/ FERNANDO J. GAITAN JR.
Fernando J. Gaitan Jr.
United States District Judge